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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,475	07/26/2006	Miksa Marton	04004.027	5175
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FILDES & OUTLAND				
20916 Mack Avenue, Ste. 2				
Grosse Pointe Woods, MI 48236				
EXAMINER				
MORGAN, EILEEN P				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/587,475

**Applicant(s)**

MARTON, MIKSA

**Examiner**

Eileen P. Morgan

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-300)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 7-26-06

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-10,12,16-18 rejected under 35 U.S.C. 102(e) as being anticipated by Palushi-2003/0040265.

Palushi discloses a sanding apparatus having an elongated frame having a handle end (14) and a work end connected to a working device (12) and a stabilizer (wheels) disposed between handle and working end preventing sanding apparatus from pulling away, the wheel being rotatable and having a rubber-like material providing friction and having weight, the frame rotatable about the stabilizer/wheels, the working device pivotal about the work end at (82) and a locking member (82) for locking working device in place by tightening, the working device comprising a ring shaped backing pad.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Palushi, alone.

Palushi discloses a sanding apparatus having an elongated frame having a handle end (14) and a work end connected to a working device (12) and a stabilizer (wheels) disposed between handle and working end preventing sanding apparatus from pulling away, the wheel being rotatable and having a rubber-like material providing friction and having weight, the frame rotatable about the stabilizer/wheels, the working device pivotal about the work end at (82) and a locking member (82) for locking working device in place by tightening, the working device comprising a ring shaped backing pad.

Palushi does not disclose the wheels being a plurality of adjacent members separated by washers. However, to use two separate wheels or a elongated member with adjacent wheels separated by washers would have been an obvious design expedient and the choice of either arrangement would have been obvious to one of ordinary skill since both perform equally well.

Claims 11,15 rejected under 35 U.S.C. 103(a) as being unpatentable over Palushi in view of Guest-2003/0192140.

Palushi discloses a sanding apparatus having an elongated frame having a handle end (14) and a work end connected to a working device (12) and a stabilizer (wheels) disposed between handle and working end preventing sanding apparatus from pulling away, the wheel being rotatable and having a rubber-like material providing friction and having weight, the frame rotatable about the stabilizer/wheels, the working

device pivotal about the work end at (82) and a locking member (82) for locking working device in place by tightening, the working device comprising a ring shaped backing pad.

In regard to the sidewheel mounted on the housing, Guest teaches a floor sander having at least one sidewheel (44) mounted to the outer portion of housing. Therefore, it would have been obvious to one of ordinary skill in the art at time invention was made to provide Palushi with at least one sidewheel mounted to housing in order to be able to sand floor spaces in corners and around poles with guidance from wheels and without damaging walls.

Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Palushi in view of Volyar 7,249,996.

Palushi discloses a sanding apparatus having an elongated frame having a handle end (14) and a work end connected to a working device (12) and a stabilizer (wheels) disposed between handle and working end preventing sanding apparatus from pulling away, the wheel being rotatable and having a rubber-like material providing friction and having weight, the frame rotatable about the stabilizer/wheels, the working device pivotal about the work end at (82) and a locking member (82) for locking working device in place by tightening, the working device comprising a ring shaped backing pad.

Palushi discloses that vacuum tube (72) running parallel to the elongated frame/handle. However, Volyar teaches a sanding member having a frame/handle that is hollow/tubular to allow for sanding waste to flow to vacuum. Therefore, it would have been obvious to one of ordinary skill in the art at time invention was made to modify the floor sander of Palushi by having a tubular handle instead of a separate parallel tube for

discharging waste, as shown by Volyar, in order to eliminate parts by combining two functions of the sander (handle/vacuum tube) into one element thereby saving money and reducing unnecessary parts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen P. Morgan whose telephone number is 571.272.4488. The examiner can normally be reached on Monday-Thursday, 7am-3:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571.272.4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EM  
December 18, 2008

/Eileen P Morgan/  
Primary Examiner, Art Unit 3723